

Josiah Ferrebee
1371 North Washington Avenue
Scranton, Pennsylvania 18509

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

-VS-

JOSIAH FERREBEE

3
3:16-CR-152

FILED
SCRANTON

JAN 12 2017

DEPUTY CLERK

DEFENDANT'S OMNIBUS PRE-TRIAL MOTION

AND NOW, comes the Defendant, JOSIAH FERREBEE, pursuant to Fed. Crim.

P. 12 respectfully presents to this Honorable Court the following *Omnibus* Pre-Trial Motion and in support thereof, avers as follows:

1. In this Motion, the Defendant raises the following issues for this Honorable Court consideration and review -
 - i.) A Motion to Dismiss - Quash Criminal Information - Habeas Corpus - pursuant to Fed.Crim.P.48
 - ii.) A Motion to Suppress Evidence obtained by the agents during the search of the Defendant's electronic, specifically the I-Phone, pursuant to Fed.Crim.P.41
 - iii.) A Motion to Merge Under-lying Offenses Indictment pursuant to the United States Constitution, 5th Amendment.
 - iv.) A Motion for Leave to File Supplemental Motions and Briefs
1. That on or about June 03, 2016, the Defendant in the above-captioned matter was arrested and charged with the following offenses:

- i.) Title 18, United States Code, Section 2251 (a) and (e)
- ii.) Title 18, United States Code, Section 2242 (b)

A. MOTION TO DISMISS - QUASH CRIMINAL INFORMATION - HABEAS CORPUS

- 2. The Defendant incorporates by reference the allegations contained in paragraph one (1) as through the same were set forth herein at length are incorporated by way of reference within this *Habeas Corpus* Motion.
- 3. The absence of evidence as to the existence of a material element is fatal. Commonwealth v. Ludwig, 874 A.2d. 623, 632 (Pa. Super. 2005) citing Commonwealth v. Wojdak, 466 A.2d. 991, 996-97 (Pa. Super. 1983)

B. MOTION TO SUPPRESS EVIDENCE OBTAINED FROM THE SEARCH

- 4. The Defendant incorporates by reference the allegations contained in paragraph one (1) through three (3) as through the same were set forth herein at length.
- 5. On grounds of Fed.Crim.P.41(f)(1)(C), the Defendant never received a property inventory sheet upon the seizing of the Defendant's electronic, specifically the I-Phone.
- 6. The Defendant argues that the evidence obtained by the agents, subsequently the seizing of his Apple I-Phone, should be suppressed by this Honorable Court under the above-mentioned law.

C. MOTION TO MERGE UNDER-LYING OFFENSES INDICTMENT PURSUANT TO THE UNITED STATES CONSTITUTION, 5TH AMENDMENT

7. The Defendant incorporates by reference the allegations contained in paragraph one (1) through six (6) as through the same were set forth herein at length.
8. On the grounds of the 5th Amendment of the United States Constitution, Title 18, United States Code, Section 2251 (a) and (e) and Title 18, United States Code, Section 2242 (b) fall under the double jeopardy clause which is "nor shall any person be charged with the same offense twice." These two charges fall under the same under-lying offenses, which by law, the are suppose to be merged or dismissed. Under Commonwealth v. Reed, the Honorable Court could not decide which of the two under-lying offenses that the Defendant should be charged with, therefore the Courts dismissed both charges.

D. MOTION FOR LEAVE TO FILE SUPPLEMENTAL MOTION AND BRIEFS

9. The Defendant incorporates by reference the allegations contained in paragraph one (1) through eight (8) as through the same were set forth herein at length.
10. It is anticipated that additional discovery and further investigation my give rise to additional ground for pre-trial motions, and thus the Defendant and counsel respectfully requests leave to file supplemental motions upon cause shown.
11. Also, the Defendant anticipates that this Honorable Court will require a Brief with support case and arguments on the Defendant's position on this

issues herein, so by way of reference the Defendant will abide by this Honorable Court's direction on the same.

E. CONCLUSION

12. For the reasons set forth herein, the Defendant respectfully requests that this Honorable Court grant the relief requested in this *Omnibus* Pre-Trial Motion.

WHEREFORE, the Defendant respectfully requests that all the relief sought on each issue contained within this *OMNIBUS* Motion be granted. And, also grant any other relief that this Honorable Court deems appropriate under the Federal Rules of Criminal Procedure.

Respectfully Submitted,



Josiah K. Ferrebee, Defendant